

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

UNILOC USA, INC; UNILOC LICENSING USA LLC; UNILOC 2017, LLC,	§	
	§	CIVIL ACTION NO. 2:18-cv-00318
Plaintiffs,	§	
	§	
v.	§	PATENT CASE
	§	
AMAZON.COM, INC.; AMAZON WEB SERVICES, INC.; AMAZON DIGITAL SERVICES, LLC; AMAZON DIGITAL SERVICES, INC.; AMAZON FULFILLMENT SERVICES, INC.,	§	JURY TRIAL DEMANDED
	§	
	§	
Defendants.	§	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs, Uniloc USA, Inc., Uniloc Licensing USA LLC, and Uniloc 2017, LLC (together “Uniloc”), as and for their complaint against defendants, Amazon.com, Inc., Amazon Web Services, Inc., Amazon Digital Services, LLC, Amazon Digital Services, Inc., and Amazon Fulfillment Services, Inc. (together “Amazon”) allege as follows:

THE PARTIES

1. Uniloc USA, Inc. is a Texas corporation having a principal place of business at Legacy Town Center I, Suite 380, 7160 Dallas Parkway, Plano Texas 75024. Uniloc also maintains a place of business at 102 N. College, Suite 303, Tyler, Texas 75702.

2. Uniloc Licensing USA LLC is a Delaware corporation having places of business at 1209 Orange Street, Wilmington, Delaware 19801 and 620 Newport Center Drive, Newport Beach, California 92660.

3. Uniloc 2017 LLC is a Delaware corporation having places of business at 1209 Orange Street, Wilmington, Delaware 19801 and 620 Newport Center Drive, Newport Beach,

California 92660.

4. Uniloc holds all substantial rights, title and interest in and to the asserted patent.

5. On information and belief, Amazon.com, Inc. is a Delaware corporation with its principal office at 410 Terry Avenue North, Seattle, WA 98109. Amazon can be served through its registered agent, Corporation Service Company, 2711 Centerville Rd., Wilmington, DE 19808. Amazon.com is the parent company of Amazon Web Services, Inc. and the primary operator and controller of the www.amazon.com commerce website. Amazon offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas and in the judicial Eastern District of Texas. As non-limiting examples, Amazon distributes the accused products through its distribution facilities in Denton County, TX. Among other business, Amazon is in the business of manufacturing and selling electronic goods sold in this judicial district.

6. On information and belief, Amazon Digital Services, Inc. is a Delaware corporation with its principal place of business at 410 Terry Avenue North, Seattle, WA98109. Amazon Digital Services, Inc. can be served through its registered agent, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218. Defendant Amazon Digital Services, Inc. resides in this judicial district. Defendant Amazon Digital Services, Inc. regularly conducts business in this district.

7. On information and belief, Amazon Web Services, Inc. is a Delaware corporation with a principal place of business at 410 Terry Avenue North, Seattle, Washington 98109. Amazon Web Services, Inc. can be served with process through its registered agent, Corporation Service Company, at 211 E 7st., Ste 620, Austin, TX 78701. Defendant Amazon Web Services, Inc. resides in this judicial district. Defendant Amazon Web Services, Inc. regularly conducts business in this district.

8. On information and belief, Defendant, Amazon Fulfillment Services, Inc. is a Delaware corporation with a principal office located at 410 Terry Avenue North, Seattle, Washington. Defendant, Amazon Fulfillment Services, Inc. resides in this judicial district. Defendant, Amazon Fulfillment Services, Inc. regularly conducts business in this district.

9. Amazon has a regular and established place of business in this District, including, e.g., distribution facilities, employees, and other business. For example, Amazon's property was appraised on the property tax rolls by Denton County at \$248 million and \$428,000. <https://www.dentoncad.com/api/notices/notice/699143?year=2017>; <https://www.dentoncad.com/api/notices/notice/659411?year=2017>; <https://blog.taxjar.com/amazon-warehouse-locations/> (“#DFW6 – 940 W Bethel Road Coppell, TX 75019”); <https://trustfile.avalara.com/resources/amazon-warehouselocations/>. As another example, Amazon has its Amazon Fulfillment Center FTW3-4 at 15201 Heritage Pkwy, Fort Worth, TX 76177, which is in this District. Amazon also maintains data center(s) in Dallas/Fort Worth area, which is involved in the operation of the accused instrumentalities. Amazon offers its products and/or services, including those accused herein of infringement, to customers and potential customers located in Texas and in this District. Amazon derives financial benefits through its business in Texas and in this District. *See, e.g.,* <http://dir.texas.gov/View-Search/ContractsDetail.aspx?contractnumber=DIR-TSO-2733>; <https://aws.amazon.com/contractcenter/cloud-services-for-the-state-of-texas/>.¹

¹ *See also, e.g.,* <http://www.costar.com/News/Article/Amazon-Establishes-Austin-HQ-inDomain-7/171852>; <http://www.datacenterknowledge.com/archives/2008/11/18/whereamazons-data-centers-are-located>; <http://www.govtech.com/computing/Texas-andAmazon-Unite-on-Cloud-Services-Contract.html>; http://publishingext.dir.texas.gov/portal/internal/contracts-and-services/Contracts/Contract%20DIR_TSO_2733.pdf.

JURISDICTION

10. Uniloc brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11. This Court has personal jurisdiction over Amazon in this action because Amazon has committed acts within the Eastern District of Texas giving rise to this action and has established minimum contacts with this forum such that the exercise of jurisdiction over Amazon would not offend traditional notions of fair play and substantial justice. Amazon has committed and continues to commit acts of infringement in this District by, among other things, offering to sell and selling products and/or services that infringe the asserted patent.

12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Amazon is registered to do business in Texas, and upon information and belief, Amazon has transacted business in the Eastern District of Texas and has committed acts of direct and indirect infringement in the Eastern District of Texas. Amazon has regular and established place of business in this District, as set forth above.

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 9,141,489)

13. Uniloc incorporates the preceding paragraphs above by reference.

14. U.S. Patent No. 9,141,489 (“the ’489 Patent”), entitled FAILOVER PROCEDURE FOR SERVER SYSTEM that issued on September 22, 2015. A true and correct copy of the ’489 Patent is attached as Exhibit A hereto.

15. Pursuant to 35 U.S.C. § 282, the ’489 Patent is presumed valid.

16. The ’489 Patents describe inventive features that are not well-understood, routine, and conventional.

17. Amazon makes, uses, offers for sale, sells and/or imports into the United States a platform marketed under the name “Amazon Web Services” or “AWS”. Products falling within this marketed family include services and platforms called “Amazon Route 53” (e.g., <https://aws.amazon.com/route53/>). These services and platforms utilize and function with the Amazon Web Services platform. Collectively, such a system constitutes the “Accused Infringing Devices”.

18. The Accused Infringing Devices include various devices and platforms that utilizes the Amazon Web Services redundant instances and Amazon Route 53 failover capabilities.

19. The Accused Infringing Devices include various devices and platforms that provide and/or utilize redundant server systems with failover capability.

20. Amazon Web Services provides multiple servers/resources that perform redundant functions, such as serving data.

21. Amazon Route 53 is a routing device, in secure communications with the redundant AWS servers. Amazon Route 53 performs health checks that periodically return the status of a server. Amazon Route 53 capabilities include an active-passive failover mode in which a server is designated the primary server and another server is designated a secondary server. Amazon Route 53 compares the health check status messages of the servers to a designated string and if there is no match, then Amazon Route 53 will switch from a primary server to a secondary server.

22. Amazon has directly infringed, and continues to directly infringe one or more claims of the '489 Patent in the United States during the pendency of the '489 Patent, including at least claim 9 literally and/or under the doctrine of equivalents, by or through making, using, offering for sale and/or selling the Accused Infringing Devices that operate as described above.

23. In addition, should the Accused Infringing Devices be found to not literally infringe the asserted claims of the '489 Patent, use of the devices would nevertheless infringe the asserted

claims of the '489 Patent. More specifically, the devices perform substantially the same function (providing redundant servers with failover capability), in substantially the same way (via designating a primary server and a secondary server, and performing periodic health checks for each server, and comparing the health check messages to a designated string), to yield substantially the same result (switching from a primary server to a secondary server if the health check message does not match the designated string). Amazon would thus be liable for direct infringement under the doctrine of equivalents.

24. Amazon has indirectly infringed and continues to indirectly infringe at least claim 9 of the '489 Patent in this judicial district and elsewhere in the United States by, among other things, actively inducing the using, offering for sale or selling the Accused Infringing Devices. Amazon's customers who use such devices in accordance with Amazon's instructions directly infringe one or more of the foregoing claims of the '489 Patent in violation of 35 U.S.C. § 271. Amazon directly and/or indirectly intentionally instructs its customers to infringe through training videos, demonstrations, brochures, installation and/or user guides such as those located at one or more of the following:

- <https://aws.amazon.com/route53/>
- <https://docs.aws.amazon.com/Route53/latest/DeveloperGuide/Welcome.html>
- <https://aws.amazon.com/route53/details/>
- <https://aws.amazon.com/documentation/route53/>
- <https://docs.aws.amazon.com/Route53/latest/DeveloperGuide/dns-configuring.html>

Amazon is thereby liable for infringement of the '489 Patent under 35 U.S.C. § 271(b).

25. Amazon has indirectly infringed and continues to indirectly infringe at least claim 9 of the '489 Patent by, among other things, contributing to the direct infringement by others including, without limitation customers using the Accused Infringing Devices, by making, offering to sell, selling and/or importing into the United States, a component of a patented machine,

manufacture or combination, or an apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in infringing the '489 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use.

26. Amazon will have been on notice of the '489 Patent since, at the latest, the service of this complaint upon Amazon. By the time of trial, Amazon will have known and intended (since receiving such notice) that its continued actions would actively induce and contribute to the infringement of one or more of claims of the '489 Patent.

27. Amazon may have infringed the '489 Patent through other devices, systems, and software utilizing the same or reasonably similar functionality as described above. Uniloc reserves the right to discover and pursue all such additional infringing software and devices.

28. Uniloc has been damaged by Amazon's infringement of the '489 Patent.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Amazon as follows:

- (A) declaring that Amazon has infringed the '489 Patent;
- (B) awarding Uniloc its damages suffered as a result of Amazon's infringement of the '489 Patent pursuant to 35 U.S.C. § 284;
- (C) awarding Uniloc its costs, attorneys' fees, expenses and interest, and
- (D) granting Uniloc such further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Uniloc hereby demands trial by jury on all issues so triable pursuant to Fed. R. Civ. P. 38.

Dated: July 27, 2018

Respectfully submitted,

By: /s/ James L. Etheridge

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